

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:18 CV 300**

LEAH MORAN, *individually and as executrix*)
for the ESTATE OF HEATHER GRACE BOONE)
LEVITSKY)

Plaintiff,

v.

ORDER

POLK COUNTY, POLK COUNTY)
SHERIFF'S DEPARTMENT,)
TRANSYLVANIA COUNTY,)
TRANSYLVANIA COUNTY)
DETENTION CENTER, DONALD HILL,)
in his official and individual capacities,)
JOSHUA J. KUJAWA, *in his individual capacity,*)
SHELLEY STROUP, *in her individual capacity,*)
KYLE PASSMORE, *in his individual capacity,*)
JERRY MANN, *in his individual capacity,*)
MYLES B. MCCRARY, *in his individual*)
capacity, ROBBIE WORTHY, *in his individual*)
capacity, DAVID A. MAHONEY, *in his official*)
and individual capacities, NICHOLE)
BLACKWELL, *in her individual capacity,*)
UNKNOWN JOHN DOE EMPLOYEE OF)
TRANSYLVANIA COUNTY,)
in his individual capacity, UNKNOWN)
EMPLOYEES OF TRANSYLVANIA)
COUNTY DETENTION CENTER, *in their*)
individual capacities,)

Defendants.

This matter is before the Court *sua sponte*.

On January 2, 2019, Plaintiff filed an Amended Complaint (Doc. 24). As a result of this filing, the pending Motion to Dismiss by Defendants Polk County, Transylvania County, Polk County Sheriff's Office, Transylvania County Detention Center, Donald Hill, Joshua J. Kujawa, Shelley Stroup, Kyle Passmore, Jerry Mann, and Nichole Blackwell (Doc. 16) and the Motion to

Dismiss by Defendant Myles McCrary (Doc. 18) are now moot. See e.g., Powderly v. Blue Cross & Blue Shield of N. Carolina, 2008 WL 11366424, at 1 (W.D.N.C. June 4, 2008) (noting that a plaintiff's filing of an amended complaint renders a motion to dismiss the original complaint moot (citing Standard Chlorine of Delaware, Inc. v. Sinibaldi, 821 F.Supp. 232, 239–40 (D.Del.1992))).

Accordingly, the Motion to Dismiss by Defendants Polk County, Transylvania County, Polk County Sheriff's Office, Transylvania County Detention Center, Donald Hill, Joshua J. Kujawa, Shelley Stroup, Kyle Passmore, Jerry Mann and Nichole Blackwell (Doc. 16) and the Motion to Dismiss by Defendant Myles McCrary (Doc. 18) are hereby **DENIED AS MOOT**.

Signed: January 7, 2019

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

